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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,797	02/03/2004	Andrew Shun Pui Chiu	016660-193	9241

21839 7590 06/21/2005

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ALEXANDRIA, VA 22313-1404

EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

Office Action Summary	Application No. 10/769,797	Applicant(s) CHIU, ANDREW SHUN PUI	
	Examiner Bena Miller	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Bena B. Miller

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smack, Sr. et al. (US Patent 4,616,829) in view of Seelig et al (US Patent 5,664,998)..

Smack, Sr. et al teaches in the figures most of the elements of the claimed invention including a hand-operated, foot-operated and treadmill-operated generator means (col. 5, lines 60-65; it should be noted the Examiner considers the illusion of running by the user's feet meets the limitation of the treadmill-operated generator). However, Smack, Sr. et al fails to teach at least one toy car and a sound generating means. It should be noted that it is well known in the prior art to provide a toy with sound. Therefore, it would have been obvious to one having ordinary skill at the time the invention was made to incorporate sound in the toy of Smack, Sr. et al for the purpose of providing amusement to the toy. Further, Seelig et al teaches a slot machine and racing game having a car advance along a track (Abstract, lines 1-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a car as taught by Seelig et al for the toy of Smack, Sr. et al for the purpose of providing amusement to toy.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bliss et al. (US Patent 3,834,702) in view of Seelig et al (US Patent 5,664,998)..

Bliss teaches in the figures most of the elements of the claimed invention including foot-operated (col. 1, line 63- col. 2, line 5). However, Bliss fails to teach at least one toy car and a sound generating means. It should be noted that it is well known in the prior art to provide a toy with sound. Therefore, it would have been obvious to one having ordinary skill at the time the invention was made to incorporate sound in the toy of Bliss for the purpose of providing amusement to the toy. Further, Seelig et al teaches a slot machine and racing game having a car advance along a track (Abstract, lines 1-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a car as taught by Seelig et al for the toy of Bliss for the purpose of providing amusement to toy.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
July 17, 2005